DDL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Jorge HERNANDEZ,** Defendant	Magistrate Docket No. '07 MJ 2148 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **September 4, 2007** within the Southern District of California, defendant, **Jorge HERNANDEZ,** an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5TH DAY OF **SEPTEMBER 2007.**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Jorge HERNANDEZ

PROBABLE CAUSE STATEMENT

On September 4, 2007, at approximately 4:00 A.M., Border Patrol Agent J. L. Rojas was performing his assigned line-watch duties near Tecate, California. Agent Rojas was driving westbound on the Border Road near an area known as "Ceti's Hill", when a California National Guard Unit operating a mobile infrared scope advised Agent Rojas that he had observed two subjects cross north of the United States/Mexico international boundary and were hiding above him in the brush near his location on Ceti's Hill. This location is approximately two miles east and 100 yards north of the Tecate, California Port of Entry. Agent Rojas encountered the two individuals lying down in brush. Agent Rojas identified himself as a Border Patrol Agent and questioned each of them as to their citizenship. Both subjects including one later identified as the defendant **Jorge HERNANDEZ**, freely admitted that they were citizens and nationals of Mexico, not in possession of any immigration documents that would allow them to enter or remain in the United States legally. Agent Rojas placed the subjects under arrest and transported them to the Tecate Processing Center.

Routine record checks revealed that the defendant has a criminal and immigration record. The defendant's record was determined through a comparison of his criminal record and the defendant's current fingerprint card. Official records of the Department of Homeland Security revealed that the defendant was previously deported to **Mexico** on **July 8, 2003** through **Nogales, Arizona.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights. He stated that he understood them and agreed to talk without the presence of an attorney. He admitted to being a citizen and national of Mexico. The defendant stated that he does not have any valid immigration documents to enter into or remain in the United States.